REMARKS

In the Office Action dated July 27, 2007, the Examiner rejects claims 17 through 30 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 3 through 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. Claims 3 through 40 are also rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,009,410 to LeMole ("LeMole") in view of either U.S. Patent No. 6,076,166 to Moshfeghi ("Moshfeghi") or U.S. Patent No.7,206,085 to Eguchi ("Eguchi"). Finally, the Examiner rejects claims 3 through 40 as anticipated by claims 1 through 26 of U.S. Patent No. 6,687,745 (the "'745 Patent") under the non-statutory doctrine of obviousness-type double patenting.

Claims 3 through 40 are currently pending in the present application, with claims 3, 17, 31 and 35 being independent claims. Applicants respectfully traverse the Examiner's rejections and request reconsideration and withdrawal of the rejections in view of the following remarks submitted herewith.

The Examiner rejects pending claims 3 through 40 under the judicially created doctrine of double patenting over claims 1 through 26 of US Patent No. 6,687,745. In order to advance the prosecution of the present application, Applicants submit herewith a timely filed Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c). Accordingly, Applicants respectfully request withdrawal of the rejection.

Claims 17 through 30 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Specifically, the Examiner asserts that claims 17 through 30 recite computer program code and are therefore not directed to statutory subject matter. More

specifically, independent claim 17 is directed to "Computer readable media for the storage of program code that when executed by a programmable processor instructs the processor to execute a method for presenting an application in a networked computer processing system having a plurality of client computers and a plurality of host computers". Applicants submit that as independent claim 17 is directed to computer readable media, it falls within the categories that Congress has deemed to be appropriate subject matter of a patent under 35 U.S.C. 101 and does not fall within the three exceptions to the statutory categories of inventions enumerated under MPEP § 2106, IV (A): (1) abstract ideas, (2) laws of nature and (3) natural phenomena. A computer readable medium is not an abstract idea, a law of nature or a natural phenomena, but rather a 'thing' or "product" as set forth in MPEP § 2106, IV (A).

An analysis of the overall claim of independent claim 17 results in the conclusion that claim 17 has a practical application by producing a useful, concrete and tangible result, namely the presentation on the client computer of "the application and the content based upon the presentation information", which under MPEP § 2106, IV (C) results in patentable subject matter. As the computer readable media of independent claim 17 is not precluded by any of the established categories of non-statutory subject matter under MPEP § 2106, IV and does produce a useful result, Applicants submit that the rejection of independent claim 17 under 35 U.S.C. 101 should be withdrawn.

The Examiner also rejects claims 3 through 30 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. Specifically, the Examiner asserts that independent claims 3 and 17 fail to identify whether the client or the host performs respective steps and that there exists no functional relationship between steps as certain required steps are

missing. With respect to the latter assertion, the Examiner points to independent claim 3 and asserts that there exists no functional relationship between the first and second steps of independent claim 3 because the step of "sending the retrieved computer program codes from the application server to the clients and the step of executing the computer program codes by the client so as to establish communication between the clients and the application server are missing." (Office Action, 7/27/07, pg. 3, ll. 19-23).

Applicants disagree with the Examiner's assertion that independent claims 3 and 17 are missing steps that exhibit the functional relationship between steps. Independent claim 3 is directed to a "method for presenting an application in a networked computer processing system having a plurality of client computers and a plurality of host computers". The method of independent claim 3 comprises, in part, "retrieving, in response to a request of a client computer, a content item having computer program code embedded therein, execution of the embedded computer program code establishing a communication connection to a host computer".

Although the Examiner asserts that steps relating to the sending of the computer program code from the application server to the client and the execution of the computer program code to establish communication between the client and application server are missing, the first claim element of independent claim 3 clearly states "execution of the embedded computer program code establishing a communication connection to a host computer". Therefore, independent claim 3, in its present form, claims the execution of program code and the establishment of communication between the client and application server, which creates the functional relationship with the next claim element of "sending operating environment information regarding the client computer from the client computer to the host computer" as a communication connection between the client and application server is established in the claimed

method of independent claim 3. Independent claim 17 is substantially similar to independent claim 3, but cast as a computer readable medium. As a functional relationship exists between the steps of the independent claims 3 and 17, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. 112, second paragraph.

Regarding the rejection of claim 3 through 40 under 35 U.S.C 103(a) as being unpatentable over LeMole in view of either Moshfegi or Eguchi, Applicants respectfully assert that LeMole, either alone or in combination with Moshfegi or Eguchi, fails to teach or suggest every element of the pending claims 3, 17, 31 and 35 and, therefore, fails to render independent claims 3, 17, 31 and 35 obvious.

Independent claim 3 is directed towards a method for presenting an application in a networked computer processing system having a plurality of client computers and a plurality of host computers. The method according to independent claim 3 comprises retrieving, in response to a request of a client computer, a content item having computer program code embedded therein, execution of the embedded computer program code establishing a communication connection to a host computer. Operating environment information regarding the client computer is sent from the client computer to the host computer. Presentation information is retrieved to present an application and content, the presentation information being based on the operating environment information and comprising at least one of instructions for rendering components of the application, default parameters and data values exhibited within the components, and application-specific business logic for processing input to the presented application. The client computer presents the application and the content based upon the presentation information. As indicated above, independent claim 17 comprises substantially

similar elements to those of independent claim 3, but cast as computer readable media for the storage of program code.

Applicants respectfully submit that the Examiner has failed to address certain of the Applicants' arguments regarding LeMole's failure to teach each and every claim element of independent claim 3. Specifically, as Applicants previously asserted, LeMole is not directed towards a method for presenting an application. Instead, the examples from LeMole upon which the Examiner is relying all relate to the presentation of content within a browser application. LeMole is silent with regard to the presentation of an application.

In addition to the foregoing, the Examiner has failed to address LeMole's silence with regard to retrieving, in response to a request of a client computer, a content item having computer program code embedded therein, execution of the embedded computer program code establishing a communication connection to a host computer. LeMole discusses accessing an advertising repository by clicking on an icon or inputting the specific URL address of the advertising repository and providing an aggregated advertising page or pages with hyperlink to advertising sites of one or more advertisers. Neither of these features, however, discusses the retrieval of a content item having computer program code embedded therein by a client computer or the execution of the embedded computer program code to establish a communication connection to a host computer, as claimed.

As LeMole is silent regarding the presentation of an application, it follows that LeMole likewise fails to teach or suggest retrieving presentation information to present an application and content. LeMole discusses the generation of a composite advertising page for transmission to a browser operating on a client device. There is no teaching or suggestion, however, to retrieve presentation information to present an application and content.

Independent claims 31 and 35 are similarly directed towards a systems and methods for presenting an application in a networked computer processing system having a plurality of client computers and a plurality of host computers. As discussed above in connection with independent claims 3 and 17, LeMole fails to teach or suggest at least the presentation of an application and at most discusses the presentation of content within a browser application executing at a client computer. Accordingly, LeMole, either alone or in combination with Moshfegi or Eguchi, fails to teach or suggest every element of independent claims 3, 17, 31 and 35 and, therefore, does not render independent claims 3, 17, 31 and 35 obvious. Applicants respectfully request withdrawal of the rejection with regard to independent claims 3, 17, 31 and 35 and allowance of the same.
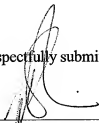
The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over LeMole and the prior art of record. Given the applicants' position on the patentability of the independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

For these reasons, Applicants respectfully request that the Examiner withdraw the rejections as they might be applied to the claims as pending following entry of this Amendment and allow the claims. To expedite prosecution of this application to allowance, the Examiner is invited to call the applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

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